

**MINUTES OF THE
REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF EDINA, MINNESOTA
CITY COUNCIL CHAMBERS
MARCH 28, 2013
7:00 PM**

I. CALL TO ORDER

II. ROLL CALL

Scherer, Schroeder, Potts, Carr, Carpenter, Forrest, and Staunton

Absent from the Roll: Platteter, Grabiell, Kilberg, Cherkassky

III. APPROVAL OF MEETING AGENDA

Commissioner Potts moved approval of the March 28, 2013 meeting agenda. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

IV. APPROVAL OF CONSENT AGENDA

Commissioner Potts moved approval of the February 27, 2013 meeting minutes. Commissioner Scherer seconded the motion. All voted aye; motion carried.

V. COMMUNITY COMMENT

During "Community Comment," the Planning Commission will invite residents to share new issues or concerns that haven't been considered in the past 30 days by the Commission or which aren't slated for future consideration. Individuals must limit their comments to three minutes. The Chair may limit the number of speakers on the same issue in the interest of time and topic. Generally speaking, items that are elsewhere on this morning's agenda may not be addressed during Community Comment. Individuals should not expect the Chair or Commission Members to respond to their comments today. Instead, the Commission might refer the matter to staff for consideration at a future meeting.

No public comment.

VI. PUBLIC HEARINGS

A. Preliminary Plat With Variances. Frank and Carol Sidell. 4232 Oakdale Avenue and 4412 Morningside Road, Edina, MN

Planner Presentation

Planner Teague reported that as a result of the sketch plan review process recently completed by the applicant, Frank Sidell, has submitted a revised proposal to subdivide the Sidell family-owned property located in between Littel Street and Morningside Road into eight lots. Of the three options considered

in the sketch review process, the “modified original,” is now formally proposed. In general, this option was the preferred option.

Teague explained that the proposed plan includes a reduced right-of-way from 50 feet to for feet, and the width of the street reduced from 28 feet to 24 feet. The Outlot, located east of the cul-de-sac, has been widened to provide additional separation from the home located at 4408 Morningside Road. This Outlot would be landscaped and then deeded to the adjacent property owner. The driveway leading to 4408 would then be relocated off Morningside onto the new cul-de-sac.

Currently the site consists of six lots. The existing home on the south side of the property and various accessory buildings would be torn down and a cul-de-sac street would be built along the east lot line to serve six of the new home sites. The existing home at 4232 Oakdale would remain and one new lot created on Littel Street.

Teague informed Commissioners to accommodate the request the following is required: A subdivision; Lot depth variances from 161 feet to 130 feet for Lot 4; to 140 feet for Lot 6 and to 135 feet for Lot 7. Teague stated within this neighborhood, the median lot area is 9,606 square feet, median lot depth is 161 feet, and the median lot width is 50 feet.

Teague concluded that staff recommends that the City Council approve the proposed eight lot subdivision of the Sidell property and the lot depth variances from 161 feet to 130 feet for Lot 4; to 140 feet for Lot 6; and to 135 feet for Lot 7. Approval is based on the following findings:

1. The applicant has submitted a subdivision of the property that would meet all minimum zoning district requirements with eight lots and new through street that would connect Morningside Road and Littel Street.
2. Rather than develop the site per all minimum Zoning Ordinance requirements, the applicant has submitted a proposed subdivision of the property with a cul-de-sac, which requires lot depth variances for Lots 4, 6 and 7.
3. The proposed subdivision with the three lot depth variances would preserve the steep slopes on the site, and preserves 50 mature trees by placing them in a conservation easement.
4. The proposed subdivision still has eight lots.
5. Except for the variances, the proposal meets the required standards and ordinance for a subdivision.
6. The proposal meets the required standards for a variance, because:
 - a. There is a practical difficulty to the property caused by the existing steep slopes and mature trees on the property.
 - b. The requested variances are reasonable in the context of the immediate neighborhood. The existing lots larger in size than the median, and there are 26 lots within 500 feet of

the property that do not have lot depths greater than 130 feet, which is the shallowest of the three lots that require lot depth variances.

- c. The variance request is reasonable, as subdivision still contains eight lots, which would be allowed with the Code compliant subdivision; however, it protects steep slopes and 50 mature trees.
- d. If the variances were denied, the applicant could still subdivide the property into eight lots, however the steep slopes would be disturbed and an additional 42 mature trees would be removed.

Approval is also subject to the following conditions:

- 1. The City must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
- 2. Prior to release of the final plat, the following items must be submitted:
 - a. Submit evidence of Minnehaha Creek Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. Enter into a Developers Agreement with the City. The Developers Agreement shall include the requirement for construction of the sidewalk as proposed.
 - c. Pay the park dedication fee of \$10,000
 - d. Individual homes must comply with the overall grading plan for the site. Each individual building permit will be reviewed for compliance with the overall grading plan subject to review and -approval of the city engineer.
 - e. Compliance with the conditions outlined in the director of engineering's memo dated March 22, 2013.
 - f. A construction management plan will be required for the overall development of the site, and for each individual home construction.
 - g. Utility hook-ups are subject to review of the city engineer.
 - h. Establishment of a tree conservation easement as demonstrated on the grading and tree preservation plan.
 - i. Outlot A shall be deeded to the adjacent parcel at 4408 Morningside Road.
 - j. The applicant must rebuild the driveway at 4408 Morningside Road to access off the new street, and eliminate the curb cut on Morningside Road. The configuration shall be subject to approval of the director of engineering.

- k. A stop sign is required to be installed on the new street approaching Morningside Road. Clear sight lines shall be maintained from the intersection.
- l. Use of Lot 7 for the overall grading of the development will require compensation to the City of Edina. A restoration plan shall be submitted by the applicant subject to review and approval by the City Council.
- m. All homes must be constructed with fire sprinkler protection in accordance to NFPA 13d.
- n. Signage stating “No Parking Fire Lane” along one side of the roadway the entire length of the road.
- o. Installation of fire hydrant(s) near end of cul-de-sac, & possibly at intersection of Morningside. Fire hydrant location is subject to review and approval of the fire marshal.

Appearing for the Applicant

Frank and Carol Sidell, property owners and applicants and Peter Knaeble, Terra Engineering, Inc.

Discussion

Commissioner Forrest noted the “no parking” suggested for one side of the proposed street and suggested if parking was limited to one side of the street that it be on the east side. Planner Teague responded that the Edina Fire Department (EFD) due to the width of the proposed road wants parking only on one side to allow for emergency vehicle access.

Commissioner Carr asked for clarification on the conservation easement. Planner Teague responded that no trees can be “touched” behind the dashed line as indicated on the site plan. Commissioner Carr noted two lines are represented on the site plan; one dashed and one solid. Carr asked the significance of the solid line. Teague responded the solid line denotes the silt fence/grading line. Carr suggested that the “conservation” easement be extended to the silt fence/grading line to ensure that the trees behind the dashed line are fully protected. She pointed out if the lot can be graded right up to the “dashed line” tree roots could be compromised causing the tree to die. With the conservation easement extended to the solid line more “breathing” space would be provided behind the line.

Chair Staunton asked Planner Teague to clarify the Parkland Dedication fee. Planner Teague explained the site was originally platted as 6-lots and parkland dedication was paid on six lots. Continuing, Teague explained since the property owner is requesting the creation of 8-lots; a parkland dedication fee is levied against the two additional lots. The Parkland Dedication fee for both lots is \$10,000; \$5,000 per lot.

Commissioner Schroeder questioned who the conservation easement is “granted” too and who monitors it. Teague responded that the conservation easement is granted in favor of the City. During the construction phase the easement area is monitored by city staff; after the home is constructed the

property owner and neighbors usually monitor that area. Teague reported since he has worked for the City residents with lots with conservation restrictions have petitioned the City Council to remove portions of the restriction to allow something; such as a play structure to be built within the restricted easement area. Teague stated in all instances the City Council is the body that would grant any modifications of the conservation easement. Commissioner Schroeder said he agrees with Commissioner Carr, adding he also has issues with the conservation easement line vs. silt fence/grading line indicating in his opinion two should match. Schroeder asked how the conservation easement line was determined and if there is a plan for trees not in the easement area.

A discussion ensued on the conservation easement line and silt fence/grading line with suggestions by Commissioners that the line be one and the same. The applicant reported that the grading line is determined by the topographical features of the site per lot; noting each lot is different and building pads also play a role in grading and preservation lines. The applicant also noted the importance the grade/elevation of the new street plays in establishing grading and preservation lines. The applicant reiterated the street grade or elevation is established first with individual building pads following. Concluding the applicant explained the tree conservation restriction line can remain firm; however, the grading/silt fence line is more flexible; however can be a determined line. Commissioner Scherer asked the Commission to note the revised memo from Wayne Houle regarding grading, etc.

Chair Staunton asked Planner Teague if the property owners at 4408 Morningside Road approve of this option. Teague responded in the affirmative. Staunton referred to letter “m” in the staff report under conditions (all homes must be constructed with fire sprinklers) and asked Teague why this item is a condition of approval. Teague responded this requirement is the result of the narrow road (under 27’) and was recommended by the EPD.

Applicant Presentation

Mr. Sidell informed the Commission they are returning with the modified version of their original proposal with cul de sac. Sidell asked the Commission to recall there were a number of options presented during sketch plan review; options included a 10-lot plat, differing lot size and arrangements (two on Morningside Road) and one option with a through street. Sidell said the option with the through street was eliminated early on because it was found to be too disruptive to the neighborhood. Continuing, Sidell explained that the proposal before the Commission is for 8-lots all over 75-feet in width. The width of the road serving the site is 24-feet, adding they wanted to achieve the feel of a “lane” while accommodating the concerns of the police and fire departments. Concluding, Sidell said they continue to work on water run-off management and would continue to work with the Minnehaha Watershed District to come up with a final plan, adding the plan at this time includes a “wetland” area on the property at 4232 Oakdale Avenue.

Peter Knaeble explained that at one time they considered a water retention system in the cul de sac; however, that wasn’t supported by the City. Knaeble also said depending on the boulevard area and pipe gallery that the proposed boulevard trees may be pushed back, adding the amount and tree

placement in the right-of-way can't be determined at this time. Commissioner Schroeder said he would like trees planted in the right-of-way area defined and/or landscaping plan.

Discussion

Commissioner Potts asked why sprinklers are required. Mr. Sidell responded that originally when the family spoke with the Fire Marshall it was indicated to them that any road less than 27-feet in width would require the houses accessing that road to be sprinkled. Sidell commented they wanted the smaller road and learned from further study that sprinklers appear to be more user friendly in single family home construction than in the past.

Commissioner Forrest asked Mr. Sidell his reason(s) for eliminating lots from fronting Morningside Road. Mr. Sidell responded that in his opinion having all houses gain access off the same road made the most sense and created a more "inclusive" development/micro-neighborhood. Sidell said in his opinion if two houses (one option) faced Morningside Road the farthest lot could be considered an orphan lot and both houses wouldn't appear to be part of the "new" neighborhood.

Commissioner Carr asked if this development is proposed with a homeowners association. Sidell said there are no plans to develop this with a "neighborhood" association. Carr asked if lighting was discussed. Mr. Sidell said he believes the city would require three streetlights. Carr questioned if the tree conservation area includes undergrowth. Mr. Sidell responded that much of the undergrowth was buckthorn and some of it has been already removed.

Chair Staunton asked Planner Teague if some of these issues would be resolved in the developer's agreement at the time of final plat. Teague responded in the affirmative.

Chair Staunton opened the public hearing.

The following spoke to the project:

Greg Murphy, 4311 Morningside Road
Richard Hardy, 4408 Morningside Road
Arnold Hymanson, 4403 Morningside Road
Mary Carte, 4208 Branson Street
Peter Killilea, 4236 Lynn Avenue

Chair Staunton asked if anyone else would like to speak to the issue; being none, Commissioner Scherer moved to close the public hearing. Commissioner Potts seconded the motion. All voted aye; motion carried.

Discussion

Chair Staunton reminded the Commission that at this time the City is working on finalizing the Construction Maintenance Plan and asked Planner Teague if this project would be reviewed under those guidelines and requirements. Teague said this development proposal would be required to conform to the requirements found in the Construction Maintenance Plan. Teague reported that the City Council will discuss the “plan” at their next meeting on April 2, and at that time the Ordinance could be adopted and become part of City Ordinance.

Chair Staunton asked Mr. Sidell if more consideration was given to the development process, inquiring if a final determination was made on if the lots would be developed all at once or one at a time. Sidell responded that at this time he is unsure of their next step. He added the family believes the lots would be developed individually and pretty much simultaneously because of the interest the lots have generated; however, he reiterated he isn’t sure of their next step. Concluding, Sidell stated at one time they discussed leaving one lot as a staging area for construction equipment, etc.

Chair Staunton questioned who enforces the requirements for the narrower street. Planner Teague responded much of this is handled through the developer’s agreement. Staunton wonder if there would be some flexibility with the sprinkling requirement. Teague responded that would be up to the Fire Marshall.

The discussion ensued with the focus shifting to lot arrangements; especially the fact that this option eliminates lot(s) fronting Morningside Road. It was further noted that Commissioner Platteter expressed support for lots fronting Morningside Road. Further discussion pointed out that if approved as proposed (no lots fronting Morningside Road) there was the potential for erecting a fence thereby creating a wall effect.

Chair Staunton agreed that there is a legitimate concern that if the plat is approved as proposed a new homeowner could erect a fence on that corner lot; creating a wall. Commissioner Carr suggested that one lot could front Morningside Road similar to the configuration of the house at 4408 Morningside Road. Commissioner Potts said he understands the concern about the potential for a fence; however, when one views the neighborhood the proposed plat mirrors the platting along the north side of Morningside Road. Front facing houses appear on the south side of the road.

Commissioner Schroeder stated he continues to have concerns with the conservation easement and the lack of detail as a condition of approval. He noted nothing presented to the Commission indicates a description of the easement area; what the easement includes or doesn’t include. Schroeder said the word “permanent” is also used; however, trees are not permanent. Schroeder added he also feels the silt fence/grading line needs to be better defined pointing out nowhere does it indicate how much disturbance could occur in the area between the silt fence/grading line and tree conservation line. Schroeder said in his opinion there should be a “no disturb” buffer area established that would actually protect the trees in the conservation easement area, especially during the initial construction phase.

Concluding, Schroeder reiterated he would like to see a plan not a line on a drawing and would like also to see a better description of the plantings proposed for the right-of-way (ROW).

Commissioner Forrest said she is also concerned with the conservation easement adding that it appears to her the majority of the houses build will be walkouts or lookouts noting there are significant grade changes to consider. Continuing, Commissioner Forrest reiterated her earlier concern about the recommended parking on one side of the street, suggesting that it be permitted on the east side, adding in her opinion the east side is the safest because parking on the west would reduce the sight lines for those backing out of their driveways. Forrest stated this is a safety issue for her.

Commissioner Potts reiterated his concern with the condition requiring the houses to be sprinkled, pointing out that could place a significant burden on the applicant and/or new property owner. Chair Staunton noted if he understands correctly the right-of-way is established at 40-feet with 24 feet paved and suggested that the road be paved to a width acceptable to the Fire Marshall that eliminates the sprinkling requirement. Staunton said as he understands it that “number” is somewhere between 24 and 28 feet. Commissioner Schroeder said in this instance the applicant is in a bit of a bind because of differing code requirements. Staunton agreed stating what the Commission wants is to keep the road width accessing the development as small as possible and not pushed beyond what is safe

MOTION

Commissioner Scherer moved Preliminary Plat approval based on staff findings and subject to staff conditions with the following: that condition h. “Establishment of a permanent tree preservation easement as demonstrated on the grading and tree preservation plan be modified to include a 20-foot buffer zone and amend condition m. “all homes must be constructed with fire sprinkler protection in accordance to NFPA 13d. be amended to read any house that shall be constructed is subject to the recommendations of the Fire Marshall. Add p. trees in the right-of-way (ROW) (provide landscaping plan.)

Commissioner Schroeder suggested as an amendment to the motion that finding 3 on page 7 be modified to state “preserves 50 mature trees by placing them in a conservation easement” not 82 as indicated. Schroeder also suggested a similar modification to 6. C. modify the language to say permanently protects steep slopes and mature trees; that as opposed to a specific number. Commissioners Scherer and Carpenter accepted the amendment.

Commissioner Carpenter seconded the motion. All voted aye; motion carried.

VII. REPORTS AND RECOMMENDATIONS

A. Zoning Ordinance Update – Residential Development

Discussion

Chair Staunton explained that at the next Planning Commission meeting on April 10th a work session is scheduled directly after the Commission meeting. Staunton referred to the 12-point memorandum from Planner Teague and asked Commissioners if there was anything they would like added to the list, taken off the list or discussed

Commissioner Carr commented that the memo lists 12 items and questioned if any of these topics should be prioritized.

Commissioner Scherer commented that in her opinion numbers 1, 2, 9 & 10 could be consolidated; this would address Commissioner Carr's comment. Scherer said with regard to #11; the single/two car garage requirement with the consideration of eliminating the two stall garage requirement didn't appear to her to be fully supported by the Council; adding she's not in favor of it.

Chair Staunton said in his opinion at this time the list should stay inclusive. He agreed that a number of items could be "clumped together"; however that could be discussed at the work session on the 10th.

Planner Teague said he would like to add an additional item for discussion and that item is front yard setbacks. Teague explained that on the west side of Edina where the lots are larger it has become problematic when averaging the front yard setback of the houses on either side to establish the front yard setback for the lot in question.

Commissioner Scherer said another concern she has might fall under #3 –adding she's not sure the 1-foot elevation limit accomplished what the Commission wanted. Staunton agreed and said additional discussion should occur on building height, where it is taken, its starting point and ending point. Scherer agreed on the importance of understanding these calculations.

Commissioner Forrest said public input played a large role in developing these topic items, adding soliciting input from the public is still welcome, it's ongoing.

Chair Staunton said that he agrees further study is needed on front yard setbacks and asked Planner Teague to add that as number 13. Staunton also asked Teague to list as a topic of discussion permission for narrower lots than 75-feet in width (subdivision). Concluding Staunton said the list should be placed on the website and notice should be posted of the public meeting.

B. 2013 Work Plan

Chair Staunton said it was time to "check in" on the 2013 Work Plan, adding he has another initiative to add for 2013; discussion on a Small Area Plan for the Valley View and Wooddale area. Staunton asked if anyone would care to add additional initiatives.

Commissioners indicated they would like to revisit the PUD process and determine if the PUD is working as planned. Another topic that should be considered is the Comprehensive Plan, adding the Comprehensive Plan should always be a priority.

Commissioners also reported that the Linden Hills neighborhood of Minneapolis is in the process of undertaking a Small Area Plan and the Commission and staff may be interested in how their process is working.

Commissioner Carr stated she was still interested in further discussions on lighting and how it relates to the present Zoning Ordinance.

VIII. CORRESPONDENCE AND PETITIONS

Chair Staunton acknowledged back of packet materials.

IV. STAFF COMMENTS

Planner Teague reported that the City Council has approved the demolition of the old Public Works Site. Teague also reported that the AUAR for the Pentagon Park Office complex area is in the process of being updated and the Council will hold a work session on the AUAR on April 16th.

IV. ADJOURNMENT

Commissioner Carr moved meeting adjournment at 10:00 PM. Commissioner Potts seconded the motion. All voted aye; motion carried.

Jackie Hoogenakker

Respectfully submitted